

Remarks

This Amendment is in response to the Office Action dated **November 3, 2004**.
New claims 50-71 remain in the application.

In the Office Action of November 3, 2004, the Examiner objected to the numbering of claims pursuant to 37 C.F.R. §1.126. Applicant believes that the inclusion of new renumbered claims herein fully complies with the requirements of the Examiner. Reconsideration is respectfully requested.

In the Office Action of November 3, 2004, the Patent Examiner rejected claims 36 and 43-45 pursuant to 35 U.S.C. §102(a) as being anticipated by Montalan U.S. Patent No. 5,490,049.

In addition, the Examiner rejected claims 37-42 pursuant to 35 U.S.C. §103(a) as being unpatentable over Montalan '049. Further, the Examiner rejected claims 22-31 pursuant to 35 U.S.C. §103(a) as being unpatentable over Montalan '049 in view of Kouchi U.S. Patent No. 4,868,719. The Examiner additionally rejected claims 46-49 pursuant to 35 U.S.C. §103(a) as being unpatentable over Montalan '049 in view of Meinershagen U.S. Patent No. 4,556,862.

Lastly, the Examiner indicated that the Information Disclosure Statement as filed on March 16, 2004, did not include copies of the foreign patent documents and were thus not considered by the Examiner.

Applicant has enclosed herewith a Supplemental Information Disclosure Statement along with the appropriate fee in conjunction with Abstracts of the cited foreign patent documents.

With respect to 35 U.S.C. §102, the Federal Circuit has held that prior art is anticipatory only if every element of the claimed invention is disclosed in a single item of prior art in the form literally defined in the claim. *Jamesbury Corp. v. Litton Indus. Products*, 756 F.2d 1556, 225 U.S.P.Q. 253 (Fed. Cir. 1985); *Atlas Power Co. v. E.I. DuPont DeNemours*, 750 F.2d 1569, 24 U.S.P.Q. 409 (Fed. Cir. 1984); *American Hospital Supply v. Travenol Labs.*, 745 F.2d 1, 223 U.S.P.Q. 577 (Fed. Cir. 1984).

Applicant respectfully asserts that the Montalan '049 patent does not anticipate any of new claims 50-71 as presented herein. Applicant specifically asserts that, at minimum, Montalan '049 fails to disclose and/or teach a culminator assembly comprising aligned reflector

cavities. Applicant respectfully asserts that new claims 50-71 are not anticipated and are allowable over Montalan '049. Reconsideration and allowance is respectfully requested herein.

In the Office Action of November 3, 2004, the Examiner next rejected claims 37-42 pursuant to 35 U.S.C. §103(a) over Montalan '049. Applicant respectfully asserts that there is no suggestion, teaching, and/or disclosure in the Montalan '049 reference to provide the features of Applicant's new claims 50-71 herein.

The Montalan '049 reference is directed to a base 100 which co-operates with a cover 200 to provide an LED signaling light block for the rear end of a motor vehicle to perform a plurality of lighting functions (side-marker light, brake light, turn indicator light, and fog light) in very specific zones. The base 100 and cover 200 are curved so as to match the shape of the rear corner region of the vehicle (a corner-hugging light block). In addition, the Montalan '049 reference teaches the use of Fresnel Lenses to provide a desired type of light output upon illumination of the LED's.

The Montalan '049 reference fails to suggest, teach, and/or disclose the use of a culminator assembly having aligned reflector cavities where each aligned reflector cavity is adapted to at least partially receive a light emitting diode.

Applicant respectfully asserts that Applicant's new claims 50-71 as presented herein are allowable over the Montalan '049 reference. A rejection pursuant to 35 U.S.C. §103 is improper if the references as relied upon do not suggest the desirability and thus the obviousness of the claimed invention. In addition, a claim under examination must be viewed without the benefit of hindsight vision afforded by the cited references.

Applicant respectfully asserts that claims 50-71 as presented herein are allowable over the Montalan '049 reference which fails to teach, suggest, and/or disclose Applicant's invention herein. Reconsideration and allowance of claims 50-71 herein is respectfully requested.

The Examiner next rejected claims 22-31 pursuant to 35 U.S.C. §103(a) as being unpatentable over Montalan '049 in view of Kouchi '719.

The Kouchi '719 reference teaches that a plurality of reflectors 16A, which are arranged in close relation to each other, without a substantial gap left between each pair of adjacent reflectors 16A. The plurality of reflectors in essence form an array of individually

adjacent reflectors.

The Court of Appeals for the Federal Circuit has stated that the case law makes clear that the best defense against the subtle, but powerful, attraction of hindsight based obviousness analysis is the rigorous application of the requirement for a showing of the teaching or motivation to combine prior art references, and that one of ordinary skill in the art would have been motivated to select the references and combine them, and it was error to not elucidate any factual teaching, suggestions, or incentives from the prior art that showed the propriety of the combination. *In re Dembiczak*, 50 U.S.P.Q.2d 1614 (CAFC 1999).

The Montalan '049 reference individually and/or in combination with the Kouchi '719 reference does not provide any suggestion, teaching, or disclosure as related to the provision of the use of a culminator assembly comprising aligned reflector cavities.

Further, there is no suggestion or teaching provided in either the Montalan '049 and/or Kouchi '719 references for combination with each other, or any other alleged prior art, to provide Applicants invention as claimed herein.

Further, the combination of Montalan '049 with Kouchi '719 may not be made in an operative fashion to provide the invention as claimed by Applicant herein. Specifically, no suggestion, teaching, and/or motivation is indicated in either the Montalan '049 and/or Kouchi '719 reference for the provision of a culminator assembly comprising aligned reflector cavities.

For the above-identified reasons, Applicant respectfully asserts that claims 50-71 as presented herein are allowable over the Montalan '049 and Kouchi '719 references.

The Examiner next rejected claims 46-49 pursuant to 35 U.S.C. §103(a) as being unpatentable over Montalan '049 in view of Meinershagen U.S. Patent No. 4,556,862. The Meinershagen '862 reference teaches the use of supplemental lighting only proximate to the front and rear of a vehicle. The purpose of the Meinershagen '862 patent and/or the problem to be solved by the '862 patent, is to supplement the illumination of the left and right turn signals, the brake lights, and/or the slow moving traffic signal through the hazard light of a standard passenger vehicle. The above-identified problem is taught to be solved by the placement of non-LED light sources along only the front and back of the vehicle and the electrical connection of a flasher circuit to the turn signal circuits, the brake circuits, the hazard circuits, and/or the parking light circuit of the vehicle. Supplemental illumination is provided upon a vehicle operatively

engaging any of the turn signals, hazard signal, brake light signal, and/or parking light circuits.

The Meinershagen '862 patent does not mention or enable the use of a culminator assembly having aligned reflector cavities. In addition, the '862 patent does not mention or enable the use of light emitting diode light sources.

The Montalan '049 reference individually and/or in combination with the Meinershagen '862 reference does not provide a suggestion, teaching, or disclosure as related to the provision and use of a culminator assembly having aligned reflector cavities for use in conjunction with light emitting diode light sources. No suggestion or teaching is provided in either the Montalan '049 and/or Meinershagen '862 references for combination with each other, or with any other alleged prior art, to provide Applicant's claimed invention herein.

No suggestion or teaching is provided in the Montalan '049 reference to combine with Meinershagen '862, or any other prior art, to provide Applicant's invention herein. In addition, Montalan '049 and Meinershagen '862 both are focused solely on the problem of enhancing brake light visibility, turn signal visibility and/or standard vehicle hazard light visibility. Neither the Montalan '049 nor the Meinershagen '862 reference provide any teaching whatsoever with respect to a culminator assembly comprising aligned reflector cavities.

Therefore, the combination of Montalan '049 with Meinershagen '862 is improper, and may not support an obviousness rejection pursuant to 35 U.S.C. §103 with respect to Applicant's claims as presented herein for consideration.

Neither the Montalan '049, Kouchi '719, nor Meinershagen '862 references provide enabling disclosure with respect to the use of a culminator assembly having aligned reflector cavities. The devices of Montalan '049, Kouchi '719, and Meinershagen '862 would require complete reengineering and redesign to teach or suggest the features of Applicant's claims 50-71 herein.

For the foregoing reasons, Applicant respectfully requests reconsideration and allowance of claims 50-71 herein. Applicant respectfully asserts the claims herein are now in condition for allowance. Early action to that effect is earnestly solicited. Should the Examiner have any questions concerning this Amendment, then the Examiner is cordially invited to contact the undersigned by telephone, facsimile, and/or E-mail at the below identified addresses.

If an extension of time is required to make this response timely and no separate

petition is enclosed, Applicant hereby petitions for an extension of time sufficient to make the response timely. In the event that this response requires the payment of government fees and payment is not enclosed, please charge Deposit Account No. 22-0350.

Respectfully submitted,

VIDAS, ARRETT & STEINKRAUS

Date: 2-3-, 2005

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